

REMARKS

Reconsideration of the subject application in view of the following remarks is respectfully requested. Claims 45-150 are pending in this application. No new matter has been added to the subject application by this response, nor have any new issues been raised.

The Rejection Asserted in the Office Action

In the outstanding Office Action, Claims 45-137, and 139-150 were allowed. Claim 138 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Response by Applicant

On page 2 of the outstanding Office Action, the Examiner asserts that "Claim 138 is identical to claim 137." Applicants presume that this is the sole basis alleged for the 112 rejection.

Applicants respectfully traverse the 112 rejection, primarily because Applicants contend that Claim 138 **is not** identical to Claim 137. Claims 137 and 138 are reprinted below. For your convenience, differing elements are underlined and in bold text.

137. A composition of a stable, sterile, and injectable aqueous dispersion of a water-insoluble microdroplet matrix having a mean diameter of about 50 nm to about 1000 nm, the dispersion consisting essentially of:

(a) propofol in an amount of about 2% by weight of the dispersion;

(b) a medium-chain triglyceride in an amount of 4% by weight of the dispersion;

- (c) egg lecithin in an amount of 1.6% by weight of the dispersion;
- (d) anionic dimyristoylphosphatidyl glycerol in an amount of 0.1 % by weight of the dispersion;
- (e) mannitol in an amount of 5.5% by weight of the dispersion; and
- (f) water.

138. A composition of a stable, sterile, and injectable aqueous dispersion of a water-insoluble microdroplet matrix having a mean diameter of about 50 nm to about 1000 nm, the dispersion consisting essentially of:

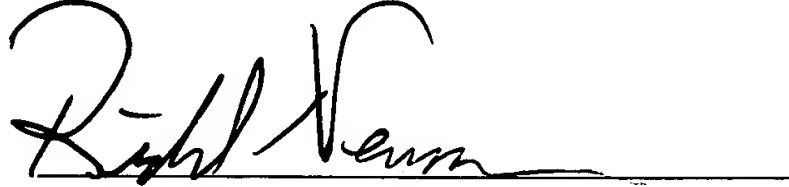
- (a) propofol in an amount of about 2% by weight of the dispersion;
- (b) a mixture of medium-chain triglycerides in an amount of 4% by weight of the dispersion;**
- (c) egg lecithin in an amount of 1.6% by weight of the dispersion;
- (d) anionic dimyristoylphosphatidyl glycerol in an amount of 0.1 % by weight of the dispersion;
- (e) mannitol in an amount of 5.5% by weight of the dispersion; and
- (f) water.

As you will note, Claim 137 is an independent claim directed to a composition which includes, among other things, a medium chain triglyceride, whereas Claim 138 is an independent claim directed to a composition which includes, among other things, a mixture of medium-chain triglycerides. Thus, Claims 137 and 138 are not identical and the 112 rejection should be withdrawn.

The 112 rejection was the only rejection outstanding. Therefore, as a result of this response, all of the pending claims in the subject application, namely Claims 45-150, are in condition for allowance. Applicants respectfully submit that the subject application is ready for issuance, and such action is earnestly solicited.

If the Examiner believes that a personal or telephonic interview may facilitate resolution of any remaining matters, Applicant's representative may be contacted at the number indicated below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard H. Newman", is written over a horizontal line.

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